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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,127	08/30/2000	Petter Bragd	010315-089	1058

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EXAMINER

WEBB, JAMISUE A

ART UNIT PAPER NUMBER

3761

DATE MAILED: 08/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/651,127	<b>Applicant(s)</b> BRAGD ET AL.	
	<b>Examiner</b> Jamisue A. Webb	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 7-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of the restriction in Paper No. 5 is acknowledged. The traversal is on the ground(s) that thorough examination of the subject matter in the article would be substantially coextensive with a careful examination of the method claims. This is not found persuasive because although the method has been amended to include wording used in the article claim, the article can still be made by a different process. The method claims the two layers are formed while the foam is still wet so that the layers are integrated, after which the layers are dried and compressed. The article can also be made by a different process, by forming the two layers separately, compressing the layers and then crosslinking the layers together so that the layers are integrated.

The requirement is still deemed proper and is therefore made FINAL.

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Sweden on 8/30/99. It is noted, however, that applicant has not filed a certified copy of the Swedish application as required by 35 U.S.C. 119(b).

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, at least two integrated layers where there is no clear partitioning line between the layers must be shown or the feature(s) canceled

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from the claim(s). No new matter should be entered. The drawings show three separate layers with clear partitioning lines separating the layers.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-6 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rezai et al. (5,713,881) in view of Cohen et al. (5,728,083).

7. With respect to Claims 1, 2, 6 and 11-16: Rezai discloses an absorbent structure used in a such things as a diaper or incontinence guard (column 1) that has multiple integrated layers

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(see figures 1-6), in which has one layer (72) made of an cellulosic foams made of regenerated rayon, which is viscose (column 20, line 36 and column 21, lines 21-23), and another layer (71) which is a mixture of an absorbent foam such as rayon (column 11, lines 18-19) and a superabsorbent material. (column 11, lines 57-62). Rezai discloses that the layers of the article are crosslinked together (column 22, lines 45-62). It is the examiner's position that crosslinking causes the layers of the article to be integrated together so that there is no clear partitioning line between the layers. Rezai also discloses the absorbent structure being compressed and expands when wet (column 37, lines 54-57).

8. Rezai discloses controlling the pore size of the cellulosic layer, however does not disclose the use of each layer being of differing pore sizes. Cohen, discloses the use of a multi-layered absorbent article where each layer has an average pore size no greater than the layer immediately proceeding it toward the liquid accepting surface (column 4, lines 20-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the layers of Rezai, impart a lower average pore size then the layer directly above, in order to improve the sequestering of liquids within the absorbent structure. (see Cohen, column 4).

9. With respect to Claim 3: Rezai discloses the substrate layer has zero superabsorbent, and the second layer being a mixture of foam and superabsorbent, therefore different amounts.

10. With respect to Claim 4: Rezai discloses the substrate layer being a layer on top of the absorbent foam and superabsorbent layer, and Cohen discloses the pore size decreasing from top to bottom. Therefore, when the substrate layer is on the bottom of the absorbent foam and superabsorbent layer, then the absorbent foam and superabsorbent layer (which contains more superabsorbent material then the substrate layer, which has none) has a larger pore size. When

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the substrate is on the top of the absorbent foam and superabsorbent layer, then the absorbent foam and superabsorbent layer, which contains the greatest amount of superabsorbent, has the smallest pore size.

11. With respect to Claim 5: See Rezai, column 21, lines 24-25.

### ***Response to Arguments***

12. Applicant's arguments filed 5/22/02 have been fully considered but they are not persuasive. Applicant has argued that Rezai does not disclose integrated layers that partly penetrate into each other so that there is no clear partitioning line between the layers. As stated above it is the examiner's position that when two layers are crosslinked together, the layers are in effect partially penetrating into each other, by means of crosslinking, and therefore there is no clear partitioning line between the layers. Rezai discloses the layers being crosslinking together, therefore, it is the examiner's position that Rezai discloses each claim limitation, and therefore rejection stands as stated above.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dierckes, Jr. et al. (5,868,724) discloses layering of absorbent particles, with increasing pore size.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Ruhl can be reached on (703)308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw  
August 1, 2002

  
GLENN K. DAWSON  
PRIMARY EXAMINER